

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of  
Truth-in-Billing  
And Billing Format

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CC Docket No. 98-170

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

TO: The Commission

**COMMENTS OF COMPETITIVE TELECOMMUNICATIONS ASSOCIATION**

The Competitive Telecommunications Association ("CompTel"), by its attorneys, hereby comments on the *Notice of Proposed Rulemaking* (FCC 98-232) ["*Notice*"] released by the FCC in the above-captioned proceeding on September 17, 1998. With over 250 members, CompTel is a principal industry association representing competitive telecommunications carriers and, hence, it has a direct interest in this proceeding.

CompTel commends the FCC for initiating this proceeding in response to consumer complaints against unclear, incomplete, inaccurate and in some cases fraudulent telephone bills. CompTel believes that the FCC should adopt rules where necessary to ensure that telephone billing practices promote rather than undermine the interests of U.S. telephone subscribers. At the same time, CompTel believes that the FCC should rely in the first instance upon competitive market forces, where they exist, to regulate the billing practices of common carriers. Further, where such market forces do not exist, the FCC must be constantly aware that any rules it adopts could backfire by imposing even more costs upon consumers while making bills less rather than more consumer-friendly. Therefore, the FCC must carefully tailor its rules to focus upon the problem at hand without imposing unnecessary and costly regulations upon carriers and consumers.

In these comments, CompTel urges the FCC to limit its rules to the bills sent to subscribers by incumbent local exchange carriers ("ILECs"), which have been the primary focus of consumer complaints. There is no empirical basis for adopting rules to govern the content and

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format of bills sent directly to subscribers by non-dominant carriers, which today are governed by competitive marketplace forces. With respect to the ILECs' local telephone bills, CompTel submits that the FCC can effectively address the current problems without imposing undue compliance costs on the industry and consumers by requiring ILECs to provide an account status summary at periodic intervals, a summary of service and provider changes with each bill, and more complete customer service information for inquiries and complaints. CompTel believes that it would be harmful rather than helpful to adopt other rules governing billing practices at this time.

**I. THE FCC SHOULD NOT ADOPT RULES GOVERNING DIRECT BILLING TO CONSUMERS BY NON-DOMINANT CARRIERS.**

The *Notice* correctly recognizes that adopting mandatory rules to improve billing practices by carriers can be a double-edged sword. In particular, new rules will impose compliance costs upon the industry, and those costs almost certainly will be passed on to consumers through higher service rates or surcharges. *Notice* at ¶11. Further, there is a risk that micro-managing the billing practices of common carriers could result in bills that contain too much detail and are too complex, thereby defeating the ultimate goal of making bills easier to read while being more accurate and informative for subscribers. *Id.* Therefore, in responding to the growing problem of billing abuses, CompTel believes it is critical for the FCC to delineate clearly the source of the problem and then to adopt the least burdensome regulations that are necessary to address that problem effectively. In so doing, the FCC can keep compliance costs to a minimum while improving the extent to which bills are “thorough, accurate and understandable.” *Id.* at ¶6.

In the *Notice*, the FCC recognizes that the problem of billing abuses has primarily afflicted the bills sent to subscribers by ILECs. *Notice* at ¶6. While noting that the problem, in

theory, is equally applicable to all bills sent by common carriers for telecommunications services, *id.*, the FCC expressly asked the industry to comment on “the extent to which any carriers already have in place practices similar to, or that have the same effect as the proposals in this Notice.” *Id.* at ¶11. CompTel submits that the principal abuses identified by the FCC – namely, slamming, cramming and a lack of useful customer service data – are a significant problem in connection with bills sent to subscribers by ILECs, but generally are not a problem for direct billing to subscribers by non-dominant carriers. Therefore, in order to avoid adopting overbroad regulations and imposing unnecessary compliance costs on consumers, the FCC should limit any rules adopted in this proceeding to the bills sent to consumers by ILECs.

There are numerous reasons why direct billing by non-dominant carriers has not involved the same problems as ILEC bills. Non-dominant carriers engage in direct billing as a means of efficiently reducing billing costs while exerting more control over the carrier-customer relationship. Because direct billing occurs in competitive markets, carriers know that they must present thorough, accurate and readable bills to subscribers or risk losing their subscriber base to competing providers. Indeed, direct-billing carriers frequently compete against one another based upon their billing systems and customer responsiveness. In that environment, the problems of slamming, cramming and lack of customer service data have not been significant and, to the extent they occur, they are readily corrected by market forces. By contrast, those problems exist for the ILECs’ bills because their billing practices have yet to be fully subject to competitive market forces. In addition, subscribers historically have paid their local telephone bills even though they often are complex and unclear, thereby creating a perceived opportunity for unscrupulous marketers who desire to impose charges on consumers for services they have not consented to purchase.

In sum, the FCC should not adopt any regulations governing direct billing by non-dominant carriers, but instead should limit such regulations to the bills sent to subscribers by ILECs.

**II. THE FCC SHOULD ADOPT THE LEAST BURDENSOME RULES NECESSARY TO ADDRESS EFFECTIVELY THE PROBLEMS OF SLAMMING, CRAMMING AND LACK OF USEFUL CUSTOMER SERVICE DATA**

*A. Summary Pages and Customer Service Data.*

CompTel believes that the FCC can fully and effectively address the growing problems of slamming, cramming and a lack of useful customer service data that afflict the bills sent to subscribers by ILECs through adoption of three rules discussed in the *Notice*. *First*, the FCC should require ILECs to provide a one-page billing insert which summarizes the status of the subscriber's account with the carrier. *Notice* at ¶18. This status summary should be provided initially after adoption of a rule by the FCC, and then at regular intervals thereafter (*e.g.*, every six months or one year). *Second*, the FCC should require ILECs to provide a billing insert which summarizes any changes in the subscriber's account since the last bill, including identifying fully and accurately any new services or service providers. *Notice* at ¶19. Due to the nature and importance of this summary, it should be provided with every bill sent to the subscriber. *Third*, the FCC should require ILECs to ensure that each bill prominently contains all the necessary information to enable a consumer to inquire about and dispute specific charges. Such information should include, among other things, the name, address and toll-free number for each provider. In addition, in the event subscribers are not satisfied by contacting the provider directly, each bill should contain a general toll-free number where the consumer can contact the ILEC, if necessary, for assistance in handling a matter.

CompTel submits that these three rules will responsibly and effectively address the growing problems of slamming, cramming and a lack of useful customer service data regarding the ILECs' bills. Ultimately, it will be up to consumers to stamp out unscrupulous practices by identifying improper charges and initiating inquiries and disputes. By adopting those three rules, the FCC will enable consumers to spot improper charges quickly and accurately upon receiving each bill, while giving them the customer service data necessary to address any billing problems or issues immediately. At the same time, these rule changes are consumer-friendly because they will not complicate or lengthen the bill unreasonably, and the benefits of these rules will more than offset the modest costs of complying with them. These rules also should deter fraudulent conduct by increasing the costs of imposing improper charges on subscribers while decreasing the likelihood that subscribers will pay without inquiring about or disputing the charges.

*B. Other Rules.*

CompTel urges the FCC to refrain from adopting other rules at this time regarding the bills sent to subscribers by ILECs. Further modifications have the potential to do more harm than good by causing bills to be longer, more complex and more confusing than they are today, and by maximizing industry compliance costs to the ultimate detriment of subscribers. CompTel urges the FCC to avoid the error of adopting multiple solutions to a single problem, and instead to adopt the solution that best addresses the problem while imposing the least burden on the industry and consumers. In CompTel's view, the FCC first should address billing problems by adopting the requirements specified above, and it should consider other, more intrusive regulations only if experience shows that those requirements do not address the problem effectively. In the following paragraphs, CompTel will explain briefly why it believes additional rule changes at this time would be at best unnecessary and at worst harmful.

1. *Guidelines.* The *Notice* articulates three broad guidelines to promote billing fairness, including that (i) bills should be clearly organized and highlight any changes from prior bills; (ii) bills should contain full and non-misleading descriptions of charges; and (iii) bills should contain a clear and conspicuous disclosure of information necessary for customer service inquiries.

*Notice* at ¶10. CompTel fully supports these guidelines, and endorses them as the public interest goals in this proceeding. At the same time, CompTel recommends that the FCC refrain from transforming these guidelines into mandatory rules. As mandatory rules, those guidelines could make bills longer and more complex than they are already, increase compliance costs significantly, and lead to unnecessary disputes and litigation. Those principles will produce the maximum consumer benefits when they are used as guidelines for regulators and the industry rather than as mandatory rules.

2. *Segregation By Service And Provider.* The *Notice* asks for parties to comment on whether bills should be segregated among service providers and types of services. *Notice* at ¶17. CompTel respectfully urges the FCC not to adopt such regulations. CompTel believes that the three requirements endorsed above will give subscribers sufficient information regarding the services they are being charged for and the providers who are imposing charges on them. Segregating providers and services would make bills more cumbersome, generate disputes over how particular providers and services should be categorized, and cause confusion among subscribers as the categorization of providers and services changes over time.

3. *Content Regulation.* The FCC asks parties to comment on whether it should adopt rules to ensure a full and non-misleading description of charges and the entities imposing such charges on subscribers. *Notice* at ¶¶20-23. While agreeing fully that bills should comply with this principle, CompTel submits that it would be a mistake for the FCC to attempt to regulate the content and accuracy of bills to this level of detail. Disputes about compliance with such rules

easily could consume significant quantities of scarce resources at the FCC and within the industry, and lead to higher rates and surcharges for subscribers. Further, some subscribers may seek to delay or avoid paying legitimate charges by trying to “game” the system through disputes over the accuracy of bill entries. Particularly given questions about whether such regulations are more properly within the jurisdiction of the Federal Trade Commission as well as the scope of First Amendment protections, CompTel supports the more limited but, it believes, equally effective approach of ensuring that each subscriber receives summary pages that explain the account status and any changes in the bill, including an accurate description of each service provider and more thorough data for initiating inquiries or disputes. Subscribers who believe they do not have sufficient information about a charge or a service provider should be able to obtain such information by calling the toll-free number on the bill or, as a last resort, by calling the ILEC’s customer service representative.

4. *Deniable and Non-Deniable Charges.* The Notice seeks comment on whether telephone bills should differentiate between “deniable” and “non-deniable” charges. *Notice at ¶24.* CompTel strongly opposes including any such notification on telephone bills. By advising subscribers as to which charges they can ignore without losing their local or long distance service, such notifications would stimulate consumer fraud on carriers by emboldening subscribers to withhold or deny payment for charges which are being properly imposed on them. Such conduct would harm not only carriers, but consumers generally as carriers would be forced to increase their rates to cover higher costs due to late payment or non-payments. Rather than place such a notification on the bill, CompTel urges the FCC to work directly with the billing carriers to make sure that customers who initiate inquiries (either to the service provider or, as a last resort, the ILEC itself) are made aware of whether charges are deniable or non-deniable in nature. By requiring that bills contain summary pages and the information necessary to initiate

customer service inquiries, the FCC will minimize the number of subscribers who, out of confusion or a lack of information, simply pay charges that they believe are improper.

5. *Universal Service and Access Charges.* The FCC asks parties to comment on whether it should adopt regulations governing the line-item charges imposed by carriers in connection with the FCC's universal service and access charge decisions. Such regulations include (i) possible "safe harbor" descriptions of such charges; (ii) an accurate description of the FCC's universal service mechanisms; (iii) a requirement that carriers imposing line-item universal service charges include an explanation of any net access charge reductions they have received; and (iv) the actual costs incurred by the carrier that are attributable to the subscriber receiving the bill. *Notice* at ¶¶25-30. CompTel opposes such regulations because they would dramatically increase industry compliance costs by transforming what should be straight-forward bills into complex legal and regulatory documents. Further, the necessary billing content changes would be more likely to confuse and intimidate subscribers rather than inform them. In some cases (*e.g.*, calculating the costs attributable to each subscriber, or identifying a carrier's net access charge reductions), even experts might disagree on the "correct" answer or even whether there is a single "correct" answer. Even the seemingly simple "safe harbor" rule is problematic, because it would imply that carriers who do not use that language (whether deliberately or through lack of information about the rule itself) could be subject to liability or penalty.

CompTel urges the FCC to rely upon subscribers to utilize the customer service information in bills to obtain further information about charges if they believe the description in the bill is confusing or incomplete. In cases where the FCC believes that the carrier has inaccurately described certain charges as mandated by the FCC, CompTel submits that an informal communication from the FCC to the carrier will eliminate the problem in virtually all instances. In cases where the FCC believes that a carrier may be charging specific customers a

higher charge than is justified in light of the FCC's universal service and access charge regime, this is a substantive legal and regulatory issue that goes far beyond the truth-in-billing nature of this proceeding. The FCC should address any perceived problems of this nature through its enforcement authority under Title II of the Communications Act or, if appropriate, by opening rulemaking dockets to address those issues directly.

### **III. THE FCC SHOULD ADOPT RULES REQUIRING ILECS TO PROVIDE BILLING AND COLLECTION FOR CASUAL CALLING AT REASONABLE RATES**

For some time, CompTel has received complaints from its member companies that ILECs are charging exorbitant fees to provide billing and collection for 10-10XXX calls for unaffiliated providers, and that ILECs charge or impute considerably lower fees when providing billing and collection for the 10-10XXX calls of their own or affiliated companies. Further, CompTel is not alone in its call for closer FCC regulation of ILEC billing practices. Last year MCI filed a petition for rulemaking (RM-9108) asking the FCC to begin a proceeding to adopt rules governing the billing and collection services provided by ILECs that offer services on a non-subscribed basis. Because the ILECs' continue to wield market power over billing and collection services to the detriment of unaffiliated carriers and their customers, CompTel requests that the FCC immediately investigate these practices and take appropriate actions to promote competition among non-subscribed services and lower rates for consumers.

## CONCLUSION

For the foregoing reasons, CompTel submits that the FCC should adopt regulations governing ILEC billing practices as specified herein.

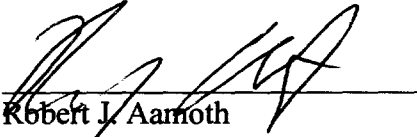
Respectfully submitted,

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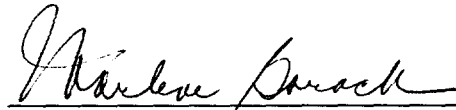
I, Marlene Borack, hereby certify that on this 13 day of November, 1998, a copy  
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